IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

Con.Case(C).No. 98 of 2007(S)

AGAINST THE JUDGEMENT IN OP.18950/1998 Dated 15/06/2004
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PETITIONERS/PETITIONERS/RESPONDENTS:
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1. A. RAJAGOPAL, AGED 47,
   S/O. APPUKUTTAN, ROAD ROLLER DRIVER,
   POVERTY ALLEVIATION UNIT (FORMERLY DISTRICT RURAL
   DEVELOPMENT AGENCY), THIRUVANANTHAPURAM.

2. B. RAMACHANDRAN, AGED 51,
   S/O. BALAKRISHNAN, ROAD ROLLER DRIVER -DO -DO-.

3. P. CHANDRA RAJ, AGED 46,
   S/O. J.PONNOSE, JEEP DRIVER, -DO -DO-.

BY ADV. SRI.N.SUGATHAN
SMT.VARSHA BHASKAR

RESPONDENTS: RESPONDENTS `1,2,4 & 5/APPELLANTS 1,2,4 & 5:
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1. SRI.S.M.VIJAYANAND, I.A.S.,
   PRINCIPAL SECRETARY TO GOVERNMENT, LOCAL SELF
   GOVERNMENT DEPARTMENT, SECRETARIAT,
   THIRUVANANTHAPURAM.

2. SRI. A.SHAJAHAN, I.A.S.,
   COMMISSIONER OF RURAL DEVELOPMENT,
   THIRUVANANTHAPURAM.

3. SRI.V.S. SANTHOSH,
SECRETARY, DISTRICT PANCHAYAT, PATTOM,
THIRUVANANTHAPURAM.

4. SRI.M.SASIDHARAN,
PROJECT DIRECTOR, POVERTY ALLEVIATION UNIT,
DISTRICT PANCHAYAT, PATTOM, THIRUVANANTHAPURAM.

BY SPL.GOVERNMENT PLEADERSRI.C.T.RAVIKUMAR.

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING BEEN FINALLY HEARD ON 07/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

Contempt Case (Civil) No. 98 of 2007-S

Dated this the 7th day of August, 2007.

J U D G M E N T

H.L.Dattu, C.J.

The petitioners in O.P.No.18950 of 1998 are the complainants in this contempt case, filed under Sections 11 and 12 of the Contempt of Courts Act, 1971 read with Article 215 of the Constitution of India. In this contempt case, the request is to initiate appropriate contempt proceedings against the respondents and to punish them for their so called wilful and deliberate disobedience of the orders and directions issued by this court while disposing of O.P.No.18950 of 1998 dated 15th June, 2004.

2. This court, while entertaining the contempt case had issued notice to the respondents. They have entered appearance and also filed counter affidavit, before this court.

3. This court, while disposing of the original petition had only stated as follows:

> " In the case of a similarly situated person, this Court in Ext.P8 Judgment dated 26-6-1998 in OP No.8415/93 directed regularization by implementing the Resolution passed by the District Rural Development Agency. That was confirmed in W.A.No.2471/98 (Ext.P9 Judgment). Since the petitioners are also similarly situated, there will be a direction to the respondents to extend the same treatment granted to the petitioner in Ext.P8 Judgment, by taking action on Ext.P2 Resolution by the District Rural Development Agency. Needless to say, the interim orders passed on 9-12-1999 will continue till orders are passed as above. Orders shall be passed within a period of four months from the date of production of a copy of this Judgment. Petitioners will also produce copies of the Judgments referred to above along with a copy of the Original Petition."

4. Nowhere in the order it was stated that the regularization of the petitioners shall be done with effect from a particular date.

5. It is an admitted fact that the petitioners/complainants were working as temporary employees. They were continuously in service as temporary employees for number of years. At no point of time their services had been confirmed. They were agitating for regularization of their service. But, this court, while disposing of the original petition, had only directed the respondents to consider the case of the petitioners and to implement the resolution passed by the District Rural Development Agency dated 17-01-1991.

6. During the pendency of this contempt case, the respondents have passed an order dated 29-06-2007. In the said order they have stated as follows:

> "Therefore, Government are pleased to Order that the service of the above mentioned six employees are regularized in the Poverty Alleviation Units (formerly DRDAs) with effect from the date of this Order on a supernumerary basis and also on the condition that on the retirement of the above six employees these posts will cease to exist."

7. In our opinion, the petitioners have to thank their stars, since the respondents have regularised their service from a particular date. We say so because the temporary employees whose employment was not in

accordance with law nor according to any statutory rules or regulations are not entitled for regularisation of service. The law on this issue is now decided by the Apex Court in Umadevi's case. For disposal of these proceedings, let us not enter into this issue, since there is already an order passed this Court, which order may be, is contrary to the observations made by the Apex Court in the aforesaid decision, since in contempt proceedings, this Court is not expected to go into the correctness or otherwise of the decision, which is said to have been disobeyed by the respondents.

8. In the instant case, this Court, while disposing the petition filed by the complainant, had only issued a direction to the respondents to consider the case of the petitioners/complainants in accordance with the resolution of District Rural Development Agency, and had not stated that the consideration and effect of that consideration from or with effect from a particular date. In the absence of any positive direction by this court to regularize the services of the petitioners from a particular date, it cannot be said that the regularization of the petitioners from the date of the order, namely, 29-06-2007 is either deliberate or wilful disobedience of the orders and directions issued by this court. In that view of the matter, we do not intend to take cognizance of the contempt case filed by the complainants. Therefore, the Contempt Case requires to be rejected and it is rejected. However, liberty is reserved to the petitioners, if they so desire, to question

the correctness or otherwise of the order passed by the State Government dated 29-06-2007.

9. In view of the order passed in the contempt case, I.A.No.375 of 2007 is allowed.

Ordered accordingly.

(H.L.DATTU)
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

MS/DK.